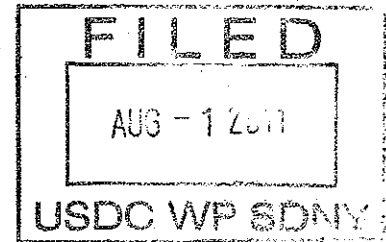


CALLAHAN & FUSCO, LLC
Charles J. Reiter (CJR-2915)
Attorneys for Defendants
FEDEX GROUND SYSTEM, INC., i/s/h/a
FED EX GROUND, INC., and ELVIS P. SANCHEZ
72 Eagle Rock Avenue, Suite 320
East Hanover, New Jersey 07936
(973) 618-9770



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JESSENIA APONTE,

Plaintiff,

v.

FED EX GROUND, INC., and
ELVIS P. SANCHEZ,

Defendants.

Civil Action No.:

**NOTICE AND PETITION
OF REMOVAL**

11 CIV 5347

TO: United States District Court
Southern District of New York
U.S. Courthouse
300 Quarropas Street
White Plains, New York 10601

JUDGE DANIELS

Defendants, FEDEX GROUND PACKAGE SYSTEM, INC., incorrectly sued herein as
FED EX GROUND, INC. (hereinafter "FEDEX"), and ELVIS P. SANCHEZ, hereby remove
this action from the Supreme Court of the State of New York, County of Bronx, to the United
States District Court for the Southern District of New York and respectfully allege:

1. A civil action has been instituted against Defendants in the above-entitled action
in the Supreme Court of the State of New York, Bronx County, entitled JESSENIA APONTE v.
FED EX GROUND, INC. and ELVIS P. SANCHEZ, under Index No. 302887/2011.

2. Upon information and belief, a Summons and Verified Complaint **[Exhibit "A"]**

was served on the New York State Secretary of State on or about April 22, 2011, and again on May 10, 2011, with respect to defendant, FEDEX (see Exhibit "B" and Exhibit "C"). Further, upon information and belief, a Summons and Verified Complaint was served by "nail and mail," on defendant, ELVIS P. SANCHEZ, on or about April 27, 2011 (see Exhibit "D").

3. Upon information and belief, no other process, pleadings or orders have been served upon Defendants FEDEX and ELVIS P. SANCHEZ.

4. By Stipulation, dated July 5, 2011, the defendants' time to answer, move or otherwise respond to the Verified Complaint was extended up to and including August 5, 2011 (see Exhibit "E").

5. Plaintiff seeks damages in an amount of money "that exceeds the monetary jurisdiction of all lower courts which would otherwise have jurisdiction over her cause of action alleged" (see Exhibit "A," supra) for personal injuries allegedly sustained in a motor vehicle accident which occurred on August 28, 2010, on Bruckner Boulevard at or near its intersection with Havemeyer Avenue, in the County of the Bronx, City and State of New York (see Exhibit "A," supra, at ¶¶ 5, 6).

6. As per the Verified Complaint, specifically the Third Cause of Action, thereof, Plaintiff alleges defendant FEDEX violated the following Federal Statutes, *to wit*: 49 CFR 382.201, *et seq.*, 49 CFR 382.301, *et seq.*, 49 CFR 383.35 and 49 CFR 391, *et seq.* (see Exhibit "A," supra, at ¶¶ 18, 19 and 20).

6. Defendants notice the removal of this action on the grounds that, based upon the allegations set forth in the Verified Complaint, specifically the Third Cause of Action, thereof, *see supra*, the Plaintiff's action involves a Federal Question and allegedly involves a claim in excess of \$75,000.00, exclusive of interest and costs; and is thereby removable under 28 U.S.C.

§ 1331 and 28 U.S.C. §1441(b), et seq.

7. This Notice of Removal is timely, as per the terms of the Stipulation Extending Defendants' Time to Answer the Verified Complaint (*see Exhibit "E", supra*).

WHEREFORE, defendants respectfully request that the action pending against them in the Supreme Court of the State of New York, County of Bronx be removed therefrom to this Court.

Dated: New York, New York
July 28, 2011

Respectfully submitted,
CALLAHAN & FUSCO, LLC

By: 

CHARLES J. REITER (CJR-2915)

Attorneys for Defendants

FEDEX GROUND PACKAGE
SYSTEM, INC., i/s/h/a FED EX
GROUND, INC., and ELVIS P.
SANCHEZ

72 Eagle Rock Avenue, Suite 320
East Hanover, New Jersey 07936
(973) 618-9770

TO:

Michael T. Ridge, Esq.
LAW OFFICES OF MICHAEL T. RIDGE
Attorney for Plaintiff
910 Grand Concourse, Suite 1D
Bronx, NY 10451
(718) 590-5400

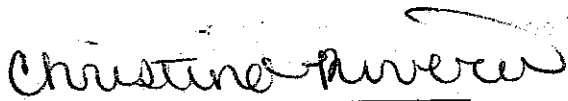
AFFIDAVIT OF SERVICE

STATE OF NEW JERSEY)
) ss.:
COUNTY OF MORRIS)

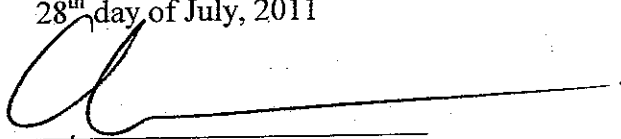
CHRISTINA RIVERA, being duly sworn, deposes and says, that deponent is not a party to this action and is over 18 years of age. That on July 28, 2011, deponent served the within Defendants' F.R.C.P. Rule 7.1 Disclosure Statement, and Notice and Petition of Removal upon the following party:

Michael T. Ridge, Esq.
LAW OFFICES OF MICHAEL T. RIDGE
910 Grand Concourse, Suite 1D
Bronx, NY 10451

by depositing said copies enclosed in a postpaid, properly addressed wrapper, into an official depository under the exclusive care and custody of the United States Post Office Department.


CHRISTINA RIVERA

Sworn to me this
28th day of July, 2011


Attorney-at-Law